FREDERICK COUNTY PLANNING COMMISSION MEETING OF APRIL 12, 2006 9:30 a.m.

Members Present: Alan Duke, Chair; Robert White, Vice Chair; Joe Brown, Secretary; Michael Cady; Commissioner Liaison; Joan McIntyre; Denny Crum.

Staff Present: Mark Depo, Development Review Planning Director; Gary Hessong; Division of Permitting & Development Review Director; Michael Wilkins, Principal Planner; Justin Horman, Principal Planner; Stephen O'Philips, Principal Planner; Kathy Mitchell, Deputy County Attorney; Michael Long, Recording Secretary

1. MINUTES:

Mr. Brown made a motion to approve the minutes from the March 8, 2006 Planning Commission meeting without any corrections. 2nd by Mr. White.

Yea 5 Nay 0 (Cady & Hines Absent)

2. PLANNING COMMISSION COMMENTS:

N/A

3. AGENCY COMMENTS:

Mr. Depo spoke of the today's agenda in regards to the first item, the FRO Text Amendment being listed for an approval vote. Mr. Depo stated that this was a mistake and the Text Amendment should be only for a Recommendation that would be sent to the Board of County Commissioners not for Approval.

Mr. Depo also added that the Abram's Property that is also on today's agenda, the applicant has asked for a 30-day continuance to be placed on the May 10, 2006 agenda. Mr. Depo referred to Section 7.6 of the Planning Commission Rules and Procedures that states items on the agenda can be withdrawn and continued up to 30 days with a majority vote from the Planning Commission.

Mr. Depo finally added that originally there was an item for a height modification for Aspen in Lake Linganore scheduled on today's agenda and was removed before the final agenda was published. The applicant is now asking to be placed on the April 19th Agenda. Mr. Depo stated that Mr. Soter and all other staff feel that this is agreeable.

Mr. Brown made a motion that the height modification case for Aspen in Lake Linganore be placed on the April 19th agenda as the last item on that Agenda. 2nd by Mr. White.

Yea 5 Nay 0 (Cady & Hines Absent)

Mr. White made a motion for a 30-day continuance of the Abrams property to the May 10, 2006 Agenda. 2nd by Mr. Brown.

Yea 5 Nay 0 (Cady & Hines Absent)

4. FRO TEXT AMENDMENT

Proposed Amendments and Revisions to the Frederick County Forest Resource Ordinance (FRO) – Applicant: Commissioner John L. Thompson. Changes regard "unconstitutional taking" and afforestation/reforestation thresholds. Staff will present alternative recommended changes. (Stephen O'Philips)

Staff Findings/Recommendations:

The Staff finds that proposed change #1 of the 2006 Thompson FRO Text Amendments would create inflexible criteria for allowing certain incursions into priority-area forest, such as utility, storm-water and road crossings.

The Staff finds that proposed change #2 would be more appropriately resolved with the adoption of a Tree Ordinance, rather than modifying the FRO, which is intended to protect forest habitat area, not individual trees.

The Staff finds that proposed changes #3, 4 and 5 are contrary to the original intent of the FCA by over-riding the intent to preserve the interests and goals of local zoning decisions to allow some property to develop intensely.

Therefore, the Staff recommends **denial** of the 2006 Thompson FRO Text amendment.

Applicant Presentation:

Commissioner John L.Thompson with the Frederick County Board of County Commissioners presented his proposal.

Public Comment

Mr. Dusty Rood; Senior Associate for Rodgers Consulting. Mr. Rood supported staff's denial of Commissioner Thompson's recommendations.

Mr. Bob Molkey; President of the Land Use Council. Mr. Molkey supported staff's recommendations of denial for the text amendment.

Mr. Ross Lillard; Fox & Associates. Mr. Lillard supported the staff's recommendations for denial of Mr. Thompson's comments.

Decision: Mr. White made a recommendation to the Board Of County Commissioners for denial of the FRO Text Amendment. 2nd by Ms. McIntyre.

Yea 5 Nay 0 (Cady & Hines Absent)

<u>Decision:</u> Mr. White made another motion to initiate a text amendment that incorporates the concepts of the staff presentation today on changes to the Forest Resource Ordinance and as part of this process to release a staff draft to interested parties, to obtain comments and hold a workshop before finalizing the text of this Text Amendment within 90-days. 2nd by Ms. McIntyre.

Yea 4 Nay 1 (Crum Opposed)(Cady & Hines Absent)

(Break at 10:56 a.m.)

(Resumed at 11:10 a.m.)

5. DPDR AUTOMATIC ANNUAL FEE ADJUSTMENT

Proposed automatic annual adjustment of DPDR Fees. (Gary Hessong & Kathy Mitchell)

Staff Findings/Recommendations:

Staff requests that the Planning Commission recommend approval of the attached ordinance, including both Option 1 and Option 2. (Options are attached)

Applicant Presentation:

Ms. Kathy Mitchell; Deputy County Attorney along with Mr. Gary Hessong; Division of Permitting & Development Review Director gave explanations of both Options '1' & '2'.

Public Comment:

N/A

<u>**Decision:**</u> Mr. Brown made a *recommendation* for denial of Option '1' and in regards to only the Subdivision Regulations deny/disapprove Option '1'. 2nd by Mr. White.

Yea 5 Nay 0 (Cady & Hines Absent)

Decision: Mr. Brown made a *recommendation* for approval of Option '2' and chose to approve Option '2' in regards to only the Subdivision Regulations, adding that the recommendation of approval also applies to the remainder of the modifications. 2nd by Mr. White

Yea 5 Nay 0 (Cady & Hines Absent)

6. AGRICULTURAL CLUSTER PLANS

<u>Oland View</u> – (Continued from January 2006 meeting) Requesting approval for 5 new residential lots totaling 7.15 acres, leaving a 181-acre remainder, located along Oland Road, east of New Design Road. Zoned: Agriculture (A) Brunswick Planning Region. Tax Map 103/Parcel 45 File #: M-2821; Hansen #: 4221 (Stephen O'Philips)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendation:

Based on the discussions in this report, and with inclusion of the condition listed below, the Staff finds that the Applicant will have met the conditions of the Zoning Ordinance for **conditional approval** of the proposed Agricultural Cluster Concept Plan:

1. The Applicant shall add a note to the ag cluster plat indicating agreement to forfeit the two remaining cluster rights.

Applicant Presentation:

Mr. Lee Miller with GLM Engineering representing the applicant presented the applicant's proposal. Mr. Miller concurred with the staff recommendations.

Public Comment

N/A

<u>Decision</u>: Mr. Brown made a motion for conditional approval in accordance with the staff recommendations. 2^{nd} by Mr. White.

Yea 5 Nay 0 (Cady & Hines Absent)

7. PRELIMINARY PLATS

<u>Main's Heights</u> - Requesting approval of a 59-lot subdivision (41 single-family and 18 townhouses) on 16.7 acres. Zoned: R-3 Residential, located West side Mains Lane, north side Bartonsville Road. Tax Map 78/Parcels 243 & 681. File#: S-002 Hansen #: 4331 & 4332 (Stephen O'Philips)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

The Staff finds, with the discussions in this report plus the recommended conditions listed below, that the preliminary plat application meets or will meet all requirements of Subdivision, Zoning, MPDU, APFO and FRO ordinance requirements. If the Planning Commission chooses to approve this application, the Staff recommends that the following conditions be added to the approval:

- 1. Note on the plan the date of Planning Commission approval of this plan with Lots #1-3 and 15-17 being served by private streets. (The panhandle lot designs may be eliminated.)
- 2. Document the private street cross-section to be 22' closed-section, or if steep grades are present, 24' width. Correct the parking tabulations for the townhouse sections.
- 3. Comply with Agency comments
 - a. Fire Marshal
 - b. Engineering Section
 - c. DUSWM
 - d. Transportation Engineering
- 4. Complete FRO and landscape changes as per Staff report.
 - a. Augment the Bartonsville forest buffer with American Holly to provide a winter screen to the backs of the townhouse units.
 - b. Change the Arbor vitae next to Lot #45 to provide a mix of tree and shrub species that would provide shade and greater landscape interest.

Applicant Presentation:

Mr. Fran Zeller with Harris, Smariga & Associates representing the applicant, Prestige Homes presented the applicant's proposal. Mr. Zeller concurred with the staff recommendations. Mr. Bert Newcomer, current owner of the property, explained the architectural of the single-family homes and lots.

Public Comment

Ms. Deborah Crummit-Schroyer; 5749 Bartonsville Road. Ms. Crummit-Schroyer had concerns with the traffic flow on Main's Lane and the architecture of the homes being two-story instead of rancher style homes due to the homes being for senior housing.

<u>Decision</u>: Mr. Brown made a motion for conditional approval in accordance with the staff recommendations, amending condition #1 to read (the panhandle lot design shall be eliminated and that all public road ways would be on HOA lands and adding a 5th condition to state that maintenance easements for all fee simple lot area be established to the benefit of all lot owners. 2nd by Mr. Crum.

Yea 3 Nay 2 (McIntyre & White Opposed) (Cady & Hines Absent)

(Break for Lunch at 12:40 p.m.)

(Resumed at 1:30 p.m.)

(Mr. Crum Absent)

8. <u>COMBINED PRELIMINARY/FINAL PLATS</u>

<u>Picnic Woods Estates Section IV, Lots 9A-9C</u> – Requesting approval for 2 new lots and a remainder in a major subdivision and a driveway spacing modification, located on the northwest side of Picnic Woods Rd, south of Biddle Rd. Zoned: (R-1) Residential, Middletown Planning Region. Tax Map 64/Parcel 218 File #S-615; Hansen # 4561 (Michael Wilkins)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

Based upon the discussions in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, Subdivision, APFO, and FRO requirements. Staff has no objection to conditional approval of the plan.

Recommendation:

Should the FcPc approve this Application (S615, AP 4561) for the proposed new lots in a Major Subdivision, Staff recommends that the following items be added as conditions to the approval:

- 1. The Applicant shall comply with all staff and agency comments.
- 2. The Applicant shall add a note to the plat stating FcPc approval and date.

Applicant Presentation:

Mr. Carl Thomas with CPJ Associates representing the applicant, Mr. & Mrs. Fowler presented the applicant's proposal

Public Comment:

Mr. Dave Kirkwood, resident of Picnic Woods Road. Mr. Kirkwood was concerned with a current stream that runs along the property and the storm water management issues that this development will cause. Mr. Kirkwood was also concerned with the FEMA reassessment in accordance with this new development making their property more of a risk of being assessed in a flood plain area.

Mr. Duke read into the record a letter from Mr. Timothy Ganley from 7391 Old Line Court in Picnic Woods Estates. Mr. Ganley stated in his letter that he supported the two new lots in Picnic Woods Estates Subdivision. (Copy of letter attached.)

Rebuttal:

Mr. Thomas gave clarification to the site distance in regards to removing the hedgerow. Mr. Thomas also clarified that the owner's are looking to downsize so there should not be large houses placed on these lots. Mr. Thomas also stated they were also concerned with the stream and stated they have done everything required by the County to avoid any storm water management problems.

<u>Decision</u>: Mr. White made a motion for conditional approval in accordance with the staff recommendations. 2^{nd} by Ms. McIntyre.

Yea 3 Nay 0 (Brown Abstained)(Crum, Cady & Hines Absent)

(Mr. Crum Arrived 1:50 p.m.)

9. <u>SITE PLANS</u>

<u>Modern Auto Body</u> – Requesting Site Plan approval for a 2,500 sq ft addition to an existing 9,919 sq ft building, located on the west side of Reichs Ford Rd, across from Vantage Way. Zoned: (GI) General Industrial, Frederick Planning Region. Tax Map 77/Parcel 183 File # SP81-05; Hansen # 4530 (Michael Wilkins)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

Based upon the discussions in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, Subdivision, APFO, and FRO requirements. Staff has no objection to conditional approval of the site plan.

Recommendation:

Should the FcPc approve this Site Plan (SP81-05, AP 4530) for the proposed 2,500 sq ft building addition, Staff recommends that the following items be added as conditions to the approval:

- 1. Applicant shall continue to address all agency comments through the completion of this project, including the shifting of loading spaces.
- 2. Applicant shall screen the side property lines with living plant materials (in addition to the screening already shown along the front of the property).

(Mr. Cady arrived 1:55 p.m.)

Applicant Presentation:

Mr. Lee Miller with GLM Engineering representing the applicant, Modern Auto Body presented the applicant's proposal. Mr. Miller concurred with the staff recommendations.

Public Comment:

N/A

<u>Decision</u>: Mr. White made a motion for conditional approval in accordance with the staff recommendations adding that screening be added to the backside of the property with slated fence. 2nd by Mr. Crum.

Yea 6 Nay 0 (Hines Absent)

<u>Abrams Property (Westview South) Lot 210</u> - Requesting approval for a four building warehouse/office flex-space on 14.2 acres. Zoned: MXD, located southeast quadrant of New Design Road and Executive Way (Extended) in the Adamstown Planning Region. Tax Map 86 /Parcel 3. File#:SP-98-36 Hansen #: 4449 (Stephen O'Philips)

Abrams Property was given a 30-day continuance at the commencement of the meeting today per the applicant's request.

<u>Kingsbrook Crossing Retail Center</u> - Requesting Site Plan Approval for an 8,533 square foot one story retail center with 39 new parking spaces. Located on 15.22 acres, Situated in the Kingsbrook Shopping Center located on the northwest corner of the Corporate Boulevard and New Design Road (Kingsbrook PUD), Zoned: Planned unit Development (PUD) Frederick Planning Region. Tax Map: 86 Parcel 55, File #: SP-89-20 Hansen #: 4316 (Justin Horman)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

Based on the discussion in this report and with the conditions listed below, Staff find that the application meets and/or will meet all applicable Zoning, APFO and FRO requirements. Staff has no objection to conditional approval of the site plan.

Recommendation:

Should the Planning Commission conditionally approve this Site Plan (SP-89-20, AP 4316) for the proposed 8,533 square foot one story, retail center with 39 new parking spaces on a pad site with in an existing shopping center, Staff recommends that the following items be added as conditions of approval:

- 1. The applicant shall revise notation # 5 to reflect the three front yards and rear yard setbacks.
- 2. The applicant shall work with staff to address the drive thru movement at the rear building to allow the buildings rear access doors to open without disrupting traffic flow.
- 3. The applicant shall revise the parking calculation to accurately reflect the number of space proposed and the number of parking spaces required by the Zoning Ordinance for the overall site.
- 4. The applicant shall provide the necessary cross access easements for both vehicular and pedestrian access across all drive aisles, sidewalks, and parking lots, as well as shared parking easements for the uses.
- 5. The applicant shall indicate the dimensions and square footage all signs proposed for the site as depicted on the building elevations.
- 6. The applicant shall provide the fee-in-lieu payment for FRO prior to grading or building permit.
- 7. Applicant shall execute a Letter of Understanding prior to final site plan approval and signature and pay their pro rata share of all needed transportation improvements into to the escrow account for road improvements
- 8. Address all agency comments as the plan proceeds through completion.

Applicant Presentation:

Mr. Fran Zeller with Harris, Smariga & Associates representing the applicant presented the applicant's proposal.

Public Comment:

N/A

<u>Decision</u>: Mr. Brown made a motion for conditional approval in accordance with the staff recommendations noting that there be a physical barrier that will block and protect the doorways. 2nd by Ms. McIntyre.

Yea 6 Nay 0 (Hines Absent)

<u>Mount Saint Mary's Dormitory</u> - Requesting Site Plan Approval for a 52,545 square foot dormitory and parking lot expansion on 12.8 acres, Located at the intersection of Annandale Road and Old Emmitsburg Road, Zoned: Agriculture (AG), Emmitsburg Planning Region, Tax Map 8, Parcel 68, File # SP-84-22, Hansen # 4157. (Justin Horman)

All parties and Staff wishing to give testimony in this matter were sworn in.

Staff Findings/Recommendations:

Findings:

Based on the discussion in this report and with the conditions listed below, Staff find that the application meets and/or will meet all applicable Zoning, APFO and FRO requirements. Staff has no objection to conditional approval of the site plan.

Recommendations:

Should the Planning Commission conditionally approve this Site Plan (SP-84-22, AP 4157) for the proposed 52,545 square foot 3 story Dormitory, a new parking lot #13 and expansion of existing parking lot #8. Staff recommends that the following items be added as conditions of approval:

- 1. The applicant shall record the addition plat and note the Liber and Folio on the site plan prior to site plan signature.
- 2. The applicant shall revise notation # 4 to reflect the 55-foot rear and side yard setbacks.
- 3. The applicant shall note the decision of the Planning Commission for the entrance spacing modification under General Note on the site plan.
- 4. The applicant shall extend the drive aisle from the entrance to the cooling tower to allow for better internal circulation and access in Lot #8.

- 5. The applicant shall increase the number of handicapped spaces in Lot #7 to allow handicapped persons a closer accessible access to the campus building in place of lot #13 spaces and note that if any future development occurs which requires handicapped parking in lot #13, the applicant will then be required to provide handicapped spaces in lot #13.
- 6. The applicant shall submit a photometric chart that depicts lighting that shall not exceed .5ft/candles at the periphery of the site.
- 7. The applicant shall obtain approval of the necessary Water and Sewerage Plan amendments per comments from the Comprehensive Planning Section.
- 8. The applicant shall provide a Developer's Option Letter and execute a Letter of Understanding that states the applicant agrees to participate in the mitigation of the traffic issues anticipated with the development of this site prior to final site plan approval and signature.
- 9. The applicant shall address the SHA comments.
- 10. The private sewage treatment plant that serves this site must have adequate capacity to accommodate this proposal. Contact MD Dept. of Environment for feasibility @ 410-537-3677.
- 11. Address all agency comments as the plan proceeds through completion.

(Break at 2:52 p.m.)

(Resumed at 3:00 p.m.)

Applicant Presentation:

Mr. Joe Lebherz from Mt. St. Mary's University representing the applicant gave the applicant's proposal. Mr. Lebherz gave the background for the project. Mr. Charlie Greenland with Ayers Saint Gross Architectural Firm gave the overall design and architectural features of the new dormitories. Mr. Larry Seffchick with Wells & Associates spoke in regards to the Traffic Studies that are currently being analyzed and the safety in regards to the traffic on Route 15.

Public Comment:

Dr. John Long, trustee of the John A. Long Lifetime Trust. Dr. Long asked for buffering due to the dormitory being so close to the building restriction line.

Mr. Joe Long also an association of the John A. Long Lifetime Trust. Mr. Joe Long spoke of how long ago the Mount was a good neighbor whereas now they are not as cooperative. Mr. Long also spoke of the historic value of his property and how this dormitory will ruin the view of the valley. Mr. Long also had concerns with the location of the building, the noise from the dorms, the water & sewer and also the lighting.

Rebuttal:

Mr. Lebherz stated that he was willing to work with all of the neighbors.

<u>Decision</u>: Ms. McIntyre made a motion for up to a 30-day continuance to allow the applicant time to get all conditions addressed including the applicant speaking with the neighbors regarding landscaping/buffering, sound and security also for the applicant to get the SHA and County Transportation Department's issues addressed. 2nd by Mr. Brown.

Yea 6 Nay 0 (Hines Absent)

Adjourned at 4:20 p.m.
Respectfully Submitted,
Alan E. Duke; Chairman